



California Fair Political Practices Commission

March 20, 1987

Honorable Kenneth L. Maddy
State Senator, 14th Senate District
State Capitol, Room 3056
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-87-075

Dear Senator Maddy:

You have requested advice concerning your obligations under the conflict of interest disclosure provisions of the Political Reform Act.^{1/}

QUESTION

Are you required to disclose as investments on your statement of economic interests life-time memberships which you purchased in a racquet club and in a country club?

CONCLUSION

If you have an "investment" of \$1,000 or more in the racquet club or in the country club, you must disclose that clubs as an investment on Schedule A of your statement of economic interests.

However, if your memberships consist only of user privileges and the right to sell your memberships, and you do not have an investment in the clubs, you are not required to disclose the clubs as investments on your statement of economic interests.

ANALYSIS

As an elected state officer, you are required to file an annual statement of economic interests disclosing, among other things, "investments" in business entities which are located in or doing business in the State of California in which you or your immediate family had an aggregate interest of \$1,000 or more during the period covered by the statement. (Sections 87200, 87203.)

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

Section 82034 defines "investment," in part, as:

...any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family....

(Emphasis added.)

If either of the clubs is a business entity (i.e., operated for profit), then your membership could constitute an investment in the business entity.

In my telephone conversations with Janis of your staff regarding your memberships in the clubs, Janis advised me that you had a "proprietary" interest in the clubs. A proprietary interest is an "ownership" interest and, therefore, if your proprietary interest in either club was \$1,000 or more at any time during 1986, you must report the club as an investment on Schedule A of your annual statement of economic interests.^{2/}

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

Alice Hughes

By: Alice Hughes
Technical Assistance and Analysis
Division

DMG:AH:kmt

^{12/}On February 23, 1987, we received amendments to your 1983, 1984 and 1985 statements of economic interests (Form 721) in which you reported a proprietary interest in both clubs. In addition, you reported a proprietary interest in the clubs on your 1986 annual statement of economic interests filed on March 2, 1987.



California
Fair Political
Practices Commission

SUPERSEDED
IN PART
by: 90-654

March 20, 1987

Honorable Kenneth L. Maddy
State Senator, 14th Senate District
State Capitol, Room 3056
Sacramento, CA 95814

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Our File No. A-87-075

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QUESTION

Are you required to disclose as investments on your statement of economic interests life-time memberships which you purchased in a racquet club and in a country club?

CONCLUSION

If you have an "investment" of \$1,000 or more in the racquet club or in the country club, you must disclose that clubs as an investment on Schedule A of your statement of economic interests.

However, if your memberships consist only of user privileges and the right to sell your memberships, and you do not have an investment in the clubs, you are not required to disclose the clubs as investments on your statement of economic interests.

ANALYSIS

As an elected state officer, you are required to file an annual statement of economic interests disclosing, among other things, "investments" in business entities which are located in or doing business in the State of California in which you or your immediate family had an aggregate interest of \$1,000 or more during the period covered by the statement. (Sections 87200, 87203.)

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(Emphasis added.)

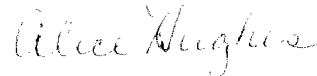
If either of the clubs is a business entity (i.e., operated for profit), then your membership could constitute an investment in the business entity.

In my telephone conversations with Janis of your staff regarding your memberships in the clubs, Janis advised me that you had a "proprietary" interest in the clubs. A proprietary interest is an "ownership" interest and, therefore, if your proprietary interest in either club was \$1,000 or more at any time during 1986, you must report the club as an investment on Schedule A of your annual statement of economic interests.^{2/}

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel



By: Alice Hughes
Technical Assistance and Analysis
Division

DMG:AH:kmt

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STATE CAPITOL
SACRAMENTO, CALIFORNIA 95814
(916) 445-9600

3433 WEST SHAW AVENUE, # 119
FRESNO, CALIFORNIA 93711
(209) 445-5567

POST OFFICE BOX 249
19901 W FIRST STREET, #2
HILMAR, CALIFORNIA 95324
(209) 667-3781

864 OSOS STREET, #C
SAN LUIS OBISPO, CALIFORNIA 93401
(805) 549-3125

California State Senate



KENNETH L. MADDY
SENATOR, FOURTEENTH DISTRICT

COMMITTEES:

APPROPRIATIONS
GOVERNMENTAL ORGANIZATION
HEALTH AND HUMAN SERVICES
(VICE CHAIRMAN)
INDUSTRIAL RELATIONS

JOINT COMMITTEE FOR
REVISION OF THE PENAL CODE
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JOINT LEGISLATIVE AUDIT
COMMITTEE (VICE CHAIRMAN)

JOINT COMMITTEE
ON THE ARTS

JOINT COMMITTEE ON
REFUGEE RESETTLEMENT
AND IMMIGRATION

SELECT COMMITTEES:

BUSINESS DEVELOPMENT
GOVERNMENTAL EFFICIENCY
RURAL ISSUES

February 3, 1987

Mr. John Larson, Chairman
Fair Political Practice Commission
Post Office Box 807
Sacramento, California 95814

Dear Mr. Larson:

This will confirm recent discussions between your offices and members of my staff in respect to the question of reporting memberships in private clubs on the Statement of Economic Interests report.

The situation has come to my attention recently in respect to memberships in said clubs and the fact that said memberships could be considered an investment. I joined Rio Del Oro Tennis Club as a life-time member. The cost was \$3500 and the membership entitles me and my family to enjoy the benefits of the club without further dues as long as I live. The membership, should I choose to resign, has some value depending upon the market at the time.

Also, I belong to the Del Rio Country Club in Modesto, a membership I purchased for \$7500. This membership requires that I pay dues and assessments and is good for life. Again, should I desire to resign, the membership has a value less certain deductions, and again, dependent upon market value.

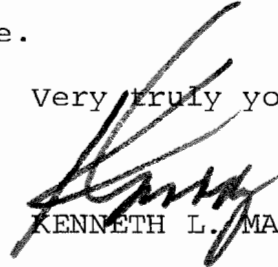
In the two above referenced cases, your offices advised that the value of the membership was somewhat

Mr. Larson
February 3, 1987
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nebulous and less than \$1000 during the reporting period; and thus, I did not need to report same on my Statement of Economic Interests report. I concur in this opinion and do not intend to report the items.

Thank you for your assistance.

Very truly yours,



KENNETH L. MADDY

KLM:fms

Memorandum

To : MEMO TO FILE

Date : November 29, 1990

From : FAIR POLITICAL PRACTICES COMMISSION
John W. Wallace

Subject : MADDY NO. 87-075

The Strauss Advice Letter (No. I-90-654) has modified the conclusion in this letter. The Strauss letter concludes that a membership interest with a fair market value of \$1,000 or more in a country club which is a business entity is an "investment" in the business entity if it can be resold at a profit or a loss. To the extent that this letter conflicts with this conclusion, it is disapproved.